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C O N F I D E N T I A L SECTION 01 OF 02 ISLAMABAD 002699

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E.O. 12958: DECL: 04/24/2017

TAGS: [PREL](#) [PTER](#) [PK](#)

SUBJECT: CHIEF JUSTICE CASE: SUPREME COURT DEFERS RULING  
ON PROCEDURAL POINTS; OPENING STATEMENTS BEGIN

REF: A. ISLAMABAD 2033

[B](#). ISLAMABAD 1834

[C](#). ISLAMABAD 1783

Classified By: Charge d'Affaires Peter W. Bodde, reasons 1.4 (b), (d)

[1](#). BACKGROUND: In early March, President Musharraf presented a reference (charge sheet) to the Chief Justice of Pakistan. The same day, the President ordered the establishment of a "Supreme Judicial Council" to decide the merits of the reference against the Chief Justice and declared the judge "non-functioning" pending the Supreme Judicial Council's final decision. In late April, the Supreme Court of Pakistan agreed to hear arguments on a variety of petitions concerning the Chief Justice's case and the constitutionality of convening the Supreme Judicial Council. On May 7, the Supreme Court ordered the Supreme Judicial Council to suspend proceedings on the Chief Justice's case while the Court decided the various related petitions.

[2](#). (C) Since mid-May, the Supreme Court has heard arguments over a number of procedural issues related to the petitions before it. On June 11, the Court announced it would defer decisions on the procedural motions for an unspecified period. The Court ordered counsel to begin their opening arguments.

3.(C) Note: Even with the Supreme Court case moving on to the next phase, the specific reference (charge sheet) against the Justice is not yet at issue. The Supreme Court is deciding whether or not the Supreme Judicial Council is constitutionally authorized to sit in judgment over the Chief Justice and whether some members of the originally configured Council should recuse themselves because of conflicts of interest. End Note.

[4](#). (C) UPDATE: On June 12, PolOff visited the Supreme Court to hear Aitzaz Ahsan, the Chief Justice's lead attorney, present his opening arguments. Ranking Justice

Ramday appeared tense and nervous. He told the packed courtroom that he and his colleagues were working under enormous pressure. Ramday said that every judge on the panel had discussed recusing himself because of the immense political and public pressure upon the court. After noting he was considering completely banning the press from reporting on the hearings, Justice Ramday announced journalists could report freely on what counsel said in court, but he placed a gag order on reporting the remarks from the bench.

15. (C) Comment: The Chief Justice case is increasingly complex and legalistic in nature, making it difficult for most Pakistanis to follow the specific arguments. Nevertheless, decent sized crowds continue to turn out for the Chief Justice as he tours around the country -- perhaps ten thousand in Faislabad on June 16, according to Consulate Lahore -- and the Chief Justice's lead attorney, Aitzaz Ahsan, is not lacking for face time on local news networks.

16. (C) Comment cont'd: At this point, unless the government finds a way to accept defeat early and end the court proceedings, the future holds three possibilities, barring unforeseen developments:  
-- The Supreme Court rules that the President mishandled the initial reference and should not have suspended the Chief Justice. The Chief Justice would return to the bench.  
-- The Supreme Court dismisses the case on procedural grounds. The Chief Justice would return to the bench.  
-- The Supreme Court rules for the government and orders the Supreme Judicial Council, perhaps with new members, to begin hearings on the reference. The outcome of those hearings, which could last for months, would decide the Chief Justice's

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